

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706GEORGE H. RYAN
GOVERNOR

August 10, 2001

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 1039 entitled "AN ACT concerning public accommodations" with my specific recommendations for change.

House Bill 1039 would create the Motorcyclist Public Accommodation Act prohibiting any person from restricting and individual's access or admission to, or use of, a place of public accommodation solely because the individual operates a motorcycle. The bill provides that a violation of the act is a criminal (petty) offense and also provides for civil penalties. House Bill 1039 further provides that the Act does not prohibit a person from restricting an individual's access or admission to, or use of, a place of public accommodation because the individual's conduct poses a risk to the health, safety, or property of another.

This legislation is designed to prohibit a form of discrimination that is not currently covered by law and I fully support the fundamental purpose and intent of this legislation. I understand that the intent of the General Assembly was not to add protections for motorcyclists to the Illinois Human Rights Act, but rather to insure that Illinois law covers a form of discrimination that exists in our state that is not specifically prohibited under current law. House Bill 1039 protects an individual's right to travel freely and use places of public accommodation without fearing or suffering arbitrary discrimination by providing a separate statutory scheme to prohibit such discrimination. I believe, however, that this bill requires further change to specifically include and protect a group of individuals whom we all recognize to be the subject of similar and oftentimes more severe forms of discrimination.

As I have said before, I favor equal and fair treatment for everyone, regardless of who they are as a person -- whether they be a motorcyclist, an ethnic minority, a gay or lesbian or even a gay or lesbian motorcyclist. I have never been in favor of special treatment for anybody, but I have always been in favor of fairness for everybody.

The General Assembly is to be commended for recognizing its responsibility and obligation to protect our citizens from inequity, unfairness and arbitrary discrimination by passing this legislation. This bill is significant because it demonstrates that the 92nd General Assembly has found common ground and reached an overwhelming consensus on a mechanism for protecting certain classes of individuals from discrimination by law, without creating special rights or special privileges. It passed the House and Senate by overwhelming majorities. Some may recall that my previous proposal (House Bill 101) to extend human rights protections

to our gay and lesbian citizens, family members, friends, colleagues and acquaintances by amending the Human Rights Act, was rejected by the Senate based primarily on the erroneous rhetoric and mistaken perception that it would provide "special rights or privileges" to this class of citizens, even though they have suffered historical and unconscionable discrimination. I still believe the General Assembly should pass House Bill 101 in its entirety, but I cannot constitutionally affect the additional protections and guarantees in that bill through an amendatory veto of this one.

The legislative history of House Bill 1039 shows that the General Assembly clearly intended to establish a separate, stand-alone mechanism that provides criminal and civil protections against discrimination for classes of individuals outside what has previously been recognized under our Human Rights Act. In providing these protections, however, the General Assembly has omitted a sizable and valuable community of people who are not only refused equal access to areas of public accommodation but are often times harassed, beaten and sometimes even killed "solely" on the basis of their sexual orientation. I'm proud to say that in Illinois we have some of the nation's best hate crimes laws on the books. However, when it comes to providing equal access to places of public accommodation to all our citizens and ensuring each individual's right to live, work and enjoy life without fear of discrimination, I am ashamed to say that Illinois falls far short of providing for this basic level of civility that so many of us can, and often do, take for granted.

This bill passed the House and Senate with little testimony. A representative of the motorcyclists' interests, testified in support of this bill and presented limited information concerning instances where motorcyclists were purportedly denied access to public accommodations. Without intending to minimize the impact of such discrimination, in good conscience we cannot at the same time simply ignore the documented evidence of discrimination and hate crimes committed against individuals because of their perceived sexual orientation. This month, the city of Chicago issued its most recent hate crime statistics which again sadly show that the overwhelming number of hate crimes are committed either because of the victim's race or sexual orientation.

My amendments are also consistent with the General Assembly's actions in passing legislation that prohibits bullying in schools. Earlier this week, I signed this anti-bullying legislation, House Bill 646, into law. It is well known and established that bullying frequently involves forms of sexual harassment. I signed this important legislation knowing that because of discrimination and harassment in schools, our gay and lesbian youth are at least three times more likely to attempt suicide. This is simply an intolerable state of affairs and we must do more to protect them both in and outside our schools.

There is another reason why I am compelled to urge amendment of this legislation. Communities throughout Illinois have already appropriately recognized that discrimination based on an individual's sexual orientation is wrong and entirely inconsistent with our fundamental concept of democracy and the protections that should be afforded to each and every citizen of this state and this nation. Indeed, our public and private universities have enacted provisions to prohibit discrimination based on sexual orientation. The County of Cook, the cities of Chicago, Champaign, DeKalb, Evanston, LaGrange, Oak Park, and Urbana, among others, have also long since passed ordinances and legislation to prohibit discrimination based on sexual orientation. In fact, three quarters of Illinoisans are already protected by such non-discrimination legislation.

Because the state has previously failed to prohibit discrimination against individuals because of their sexual orientation, this has created an irrational situation where an individual can be protected from such discrimination where they reside, but must risk losing those protections when they

travel to other locales in the state. The Motorcyclists Public Accommodation Act was clearly designed to ensure that individuals could freely travel throughout this state and avail themselves to public accommodations without fear of prejudice or discrimination. Accordingly, this legislation is an excellent vehicle to end this irrational and unequal application of laws by prohibiting places of public accommodations throughout Illinois from discriminating based on an individual's perceived sexual orientation.

It is, and always has been, the duty of any democratic governmental body to equally protect and serve the citizens that fall under its jurisdiction. House Bill 1039 moves the State of Illinois one step closer to that goal by recognizing and prohibiting existing discriminatory practices. However, House Bill 1039, as is, fails to protect a large number of human beings who are in need of this form of protection. And a set of laws that does not offer equal protection against discrimination regardless of race, color, religion, national origin, ancestry, age, gender, marital status, handicap, mode of transportation, or sexual orientation does not serve anyone except those who wish to be discriminatory, prejudicial, hateful and intolerant.

I believe my recommended amendments are essential to ensuring that the application of this legislation gives effect to, and is consistent with, the Illinois Constitution, including, among others, Section 1, 2, 12, 18, 20, 23 and 24 of Article I. My changes will without question "improve the bill in material ways, yet not alter its essential purpose and intent." See People ex rel. City of Canton v. Crouch, 79 Ill.2d 356 (1980).

As drafted, House Bill 1039 creates both a criminal penalty (petty offense) and a civil penalty (monetary damages, injunctive relief, court costs and attorney's fees) for discrimination at a place of public accommodation solely because a person is operating a motorcycle. In the case of discrimination based upon race, gender or other status under the Human Rights Act only civil and administrative relief is available. A criminal penalty would only apply if a Criminal Code offense is committed against the person because of their race, gender or other status set for in the hate crime law. I do not see a need for the type of discrimination covered by this bill to carry both a criminal and a civil penalty. Such a dispute is a civil dispute with the owner or operator of the place of public accommodation, which can be fully resolved in civil court without the need to resort to criminal court.

For these reasons, I return House Bill 1039 with the following recommendations for change:

on page 1, line 5, by deleting "Motorcyclist"; and

on page 1, by inserting between lines 21 and 22 the following:

"As used in this Act, "sexual orientation" means having or being perceived as having an emotional, physical, or sexual attraction to another person without regard to the sex of that person or having or being perceived as having an orientation for such attraction, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

Section 7. Construction. Nothing in this Act shall be construed as requiring any owner, manager or employee of a place of public accommodation to give preferential treatment or special rights based on mode of transportation or sexual orientation or to implement affirmative action policies or programs based on mode of transportation or sexual orientation."; and

on page 1, line 26, by inserting before the period "or because of the sexual orientation of the individual"; and

on page 2, line 2, by replacing "Penalty" with "Damages";
and

on page 2, by replacing lines 3 through 6 with "(a) A person who access"; and

on page 2, line 17, by replacing "(c)" with "(b)"; and

on page 2, line 19, by deleting "penalties or".

With these changes, House Bill 1039 will have my approval. A local politician once said, "Four score and seven years ago, our forefathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." That is what I believe also -- no more, no less. I choose to stand with the founder of my party and Illinois' greatest son, Abraham Lincoln, and I urge you to do likewise.

Sincerely,
s/GEORGE H. RYAN
Governor